

## REMARKS/ARGUMENTS

Claims 1-27 are pending in the application. Claims 1, 5, 10, 14, 19, and 23 have been amended. Reconsideration is respectfully requested. Applicant submits that the pending claims are patentable over the art of record and allowance is respectfully requested of the pending claims.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Mills et al. (U.S. Publication No. 2003/0161348). Applicant respectfully traverses.

Applicants note that the rejection actually lists U.S. Publication No. 2003/016348 to Salice, but the "Notice of References Cited" lists U.S. Publication No. 2003/0161348 to Mills, and Applicants will discuss the rejection with reference to the Mills reference.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 at the first network entity, in response to the driver shutting down and reloading with new settings, determining whether the driver was reloaded before a link-shutdown timer expired, wherein the link-shutdown timer is associated with the link and is started in response to the driver starting a shutdown sequence; continuing processing without dropping the link to prevent the link from being detected as unavailable by an external network entity in response to the driver being reloaded before the link-shutdown timer expired; and dropping the link in response to the driver not being reloaded before the link-shutdown timer expired (e.g., Specification, paragraphs 7, 28).

For example, Applicant's Specification, page 8, paragraph 28, and Figure2 describe:

Having a link come up (i.e., be available) and go down (i.e., be unavailable) may cause side effects to network entities (e.g., switches) that try consistently to determine whether the network topology changed. The link switching from being available to being unavailable or switching from being unavailable to being available may also be referred to as a "link toggle." Embodiments of the invention prevent this link toggle when a driver is to be unloaded and reloaded (e.g., due to reconfiguring of the network adapter 112). By preventing the link from becoming unavailable, embodiments of the invention

avoid exposing any difference to external network entities that are attempting to detect any change in the network 200. For example, if a driver at computer 205 is to be unloaded and reloaded, embodiments of the invention do not drop link E 218 between computer 205 and switch 202 for a certain period of time, to allow the driver to be reloaded, without connectivity problems.

That is, Applicant's claimed invention is directed to keeping a link up while a driver is being unloaded and reloaded with new settings.

On the other hand, the Mills patent application does not describe the claimed processing occurring *at the first network entity, in response to the driver shutting down and reloading with new settings*. Also, the Mills patent application, paragraph 156, describes PHY's sending constant idle pulses or symbols to a partner PHY . . . in order to tell the partner not to drop the link just because no data is being received. On the other hand, the claimed subject matter is directed to continuing processing without dropping the link (at the first network entity) to prevent the link from being detected as unavailable by an external network entity in response to the driver being reloaded before the link-shutdown timer expired.

Thus, amended claim 1 is not anticipated by the Mills patent application.

Amended claims 10 and 19 are anticipated by the Mills patent application for at least the same reasons as were discussed with respect to claim 1.

Amended claim 5 describes that the driver at the first network entity performs: starting a shutdown sequence; in response to determining that the link does not need to shut down, starting a link-shutdown timer for dropping the link; in response to the driver starting a load sequence and determining that the link-shutdown timer is enabled and has not expired, determining whether the link is available, wherein the link is determined to be available when the driver is reloaded with new settings before the link-shutdown timer has expired; and continuing processing without renegotiating the link in response to the link being available.

The Mills patent application does not describe a driver at the first network entity performing the claimed processing. Also, the Mills patent application does not describe that the link is determined to be available when the driver is reloaded with new settings before the link-shutdown timer has expired.

Thus, amended claim 5 is not anticipated by the Mills patent application.

Amended claims 14 and 23 are not anticipated by the Mills patent application for at least the same reasons as were discussed with respect to claim 5.

Dependent claims 2-4, 6-9, 11-13, 15-18, 20-22, and 24-27 incorporate the language of one of independent claims 1, 5, 10, 14, 19, and 23 and add additional novel elements. Therefore, dependent claims 2-4, 6-9, 11-13, 15-18, 20-22, and 24-27 are not anticipated by the Mills patent application for at least the same reasons as were discussed with respect to claims 1, 5, 10, 14, 19, and 23.

#### Conclusion

For all the above reasons, Applicant submits that the pending claims 1-27 are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

Dated: February 12, 2008

By:   /Janaki K. Davda/                    

Janaki K. Davda  
Registration No. 40,684

Please direct all correspondences to:

Janaki K. Davda  
Konrad Raynes & Victor, LLP  
315 South Beverly Drive, Ste. 210  
Beverly Hills, CA 90212  
Tel: (310) 553-7973  
Fax: 310-556-7984